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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,143	11/15/2003	James A. Napier	000129-0001	2369

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EXAMINER

CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
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3633

MAIL DATE	DELIVERY MODE
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07/14/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/714,143	Applicant(s) NAPIER, JAMES A.	
	Examiner Jeanette E. Chapman	Art Unit 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 76-79 and 97-122 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 76-79 and 97-122 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

In view of the Appeal brief filed on April, 2010, PROSECUTION IS HEREBY REOPENED. Anew non-final office action is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/DAVID DUNN/

Supervisory Patent Examiner, Art Unit 3636.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 97 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 97 the first occurrence of the recited “the flange” lacks proper antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 76-79 and -112-116 are under 35 U.S.C. 102 (b) as being anticipated by Bishop et al (5,970,661) (see annotated drawing below)

Claim 76.

Bishop discloses a tent adapter, comprising:

a flange A adjacent 39(see annotations below), having a front and a back, at least a portion of the back permanently affixable to a tent 10;

a boot 33 having first and second ends defining a longitudinally

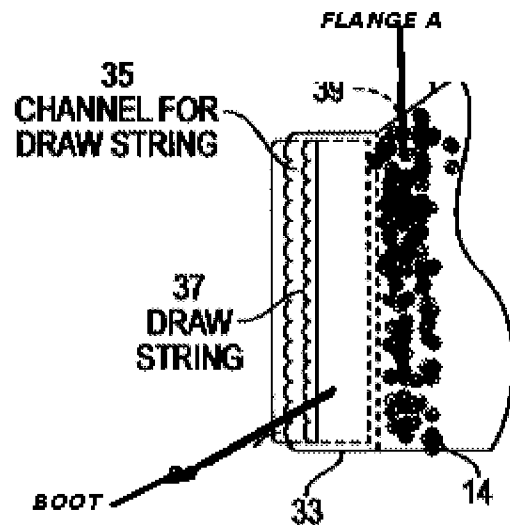
extending aperture there between, the boot 33 affixable at the first end

perpendicularly to the flange A for affixing a climate control unit 16/18 to a tent, the

adapter formed from a material selected from the group consisting of

polymer, vinyl, nylon (column 4, lines 27-30), cotton, leather, or combinations thereof;

whereby a user of the tent adapter will have direct access to the climate control unit from within the tent.



claim 77.

Bishop discloses the adaptor of claim 76 wherein the second end 37 of the boot 33 has an elastic edge 37. See column 3, lines 1-10.

claim 78.

Bishop discloses the adaptor of claim 76, wherein the second end has a closure of mesh 39 for closing the aperture at the second end.

claim 79.

Bishop discloses the adapter is nylon. The specific type of nylon is not seen as critical and relevant to the invention; ballistic nylon is known in the art of tens and textile associated therewith

claim 112.

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Bishop discloses a tent adapter, comprising:

a flange, the rear end of the tent, having a front and a back, at least a portion of the back permanently affixable to a tent;

a boot 33 having first and second ends defining a longitudinally extending aperture there between, the boot 33 affixable at the first end perpendicularly to the flange for affixing a climate control unit to a tent.

See annotations on patent copy above.

claim 113.

Bishop discloses the adapter of claim 112,

wherein the second end of the boot has an elastic edge 37. See column 3 lines 1-10

claim 114.

Bishop discloses the adapter of claim 112, wherein the second end has a closure of a drawstring 37 for closing the aperture at the second end. See column 1, 1-10.

claim 115.

Bishop discloses the adaptor of claim 112, wherein the adapter formed from a material selected from the group consisting of polymer, vinyl, nylon column 4, lines 27-30, cotton, leather, or combinations thereof.

claim 116.

Bishop, column 4, lines 27-30 discloses the portable climate control unit carrier of claim 110, wherein the dwelling is a nylon. The specific type of nylon is not seen as critical and relevant to the invention; ballistic nylon is known in the art of tents and textile associated therewith

35 USC 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all respective obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 97-98, 100-105, 107-111 and 117-119 are rejected under 35 U.S.C. 103(a) as being unpatentable over Louie (6,363,955) in view of Bishop (5,970,661).

Claim 97

Louie discloses a tent 10 defining an enclosure, a support member 1 capable of supporting the enclosure in an inhabitable configuration, the tent interchangeably transformable between a storage configuration and the inhabitable configuration;

However, Louie lacks the improvement comprising; a boot having first and second ends defining a longitudinally extending aperture there between, the boot affixable at the first end perpendicularly to the flange for affixing a climate control unit to the tent; and a climate control unit reversibly disposed at least partially within the boot for use in the second inhabitable configuration of the tent;

the tent formed from a material that does not allow the free passage of air through multiple layers of the fabric thereof; whereby a user of the tent has direct access to the climate control unit, which conditions the air within the enclosure of the tent.

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Bishop discloses a boot 33 having first and second ends defining a longitudinally extending aperture there between, the boot affixable at the first end perpendicularly to the flange 39 for affixing a climate control unit 16 to the tent; and a climate control unit 16 reversibly disposed at least partially within the boot for use in the second inhabitable configuration of the tent; the tent formed from a material that does not allow the free passage of air through multiple layers of the fabric thereof; see column 4 lines 1-14 of Bishop whereby a user of the tent has direct access to the climate control unit, which conditions the air within the enclosure of the tent.

Louie discloses the retention of the predetermined shape of the second inhabitable configuration is independent of a/the climate control unit.

It would have been obvious to one of ordinary skill in the art to modify Louie to include a accommodate a climate control unit or to modify Bishop to be able to use the tent without the climate control to give the tent and/or climate control unit a greater of amount of uses maintaining their individual uses.

Claim 98.

Bishop discloses the tent of claim 97, wherein the air is cooled.

claim 100.

Bishop discloses the tent of claim 97, wherein the tent defining the climate control unit-receiving aperture comprises an elastic member 37 for engaging the climate control unit to form a weather resistant barrier between the exterior and interior of the dwelling. See column 3 lines 1-10.

claim 101.

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Bishop, column 27-30, discloses the tent of claim 100, wherein the dwelling is nylon.
claim 102.

Bishop discloses a portable climate control unit carrier 39 but not comprising a plurality of straps, configurable about the exterior of a climate control unit. Bishop discloses the second end of the boot with a closure end; the type of closure is a matter of choice not critical to the essence of the overall invention. One of ordinary skill in the art would have appreciated the known and adaptable closure means known in the art such as straps, drawstring or elastic.

claim 103.

Bishop discloses the portable climate control unit carrier of claim 102, wherein the carrier is nylon. The specific type of nylon is not seen as critical and relevant to the invention; ballistic nylon is known in the art of tents and textile associated therewith
claim 104.

Louie discloses a portable climate control dwelling comprising:

a collapsible structure defining an enclosure, the collapsible structure interchangeably transformable between a first storage configuration and a second inhabitable configuration and further having a portion capable of defining a resealable climate control unit receiving aperture; see figure 1 and accompanying text but lacks

a climate control unit, having a front and a back, reversibly attachable with the collapsible structure for use in its second inhabitable configuration such that a user of the collapsible structure has direct

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access to the front of the climate control unit while inside the inhabitable configuration of the collapsible structure; whereby the climate control unit conditions the air within the enclosure of the collapsible structure.

Bishop discloses a climate control unit 16, having a front and a back, reversibly attachable with the collapsible structure 10 for use in its second inhabitable configuration such that a user of the collapsible structure has direct access to the front of the climate control unit while inside the inhabitable configuration of the collapsible structure 10; whereby the climate control unit conditions the air within the enclosure of the collapsible structure.

It would have been obvious to one of ordinary skill in the art to modify Louie to include a accommodate a climate control unit or to modify Bishop to be able to use the tent without the climate control to give the tent and/or climate control unit a greater of amount of uses maintaining their individual uses.

It would have been obvious to one of ordinary skill in the art to modify Louie to include a accommodate a climate control unit or to modify Bishop to be able to use the tent without the climate control to give the tent and/or climate control unit a greater of amount of uses maintaining their individual uses.

Claim 105.

Bishop discloses the portable climate control dwelling of claim 104, wherein the air is cooled.

claim 107.

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Bishop discloses the portable climate control dwelling of claim 104, wherein the collapsible structure defining the climate control unit receiving aperture comprises an elastic member 37 for engaging the climate control unit to form a weather resistant barrier between the exterior and interior of the dwelling. See column 3, lines 1-10. claim 108.

Bishop discloses the portable climate control dwelling of claim 104, wherein the dwelling is formed from a material that does not allow the “free” passage of air but allows breathable air. See column 4, lines 1-30 claim 109.

Louie discloses discloses the portable climate control dwelling of claim 108, wherein the dwelling is formed from fabric like material of canvas, synthetic or natural material; canvas commonly includes a plastic film to be somewhat water resistant or water proof. claim 110.

Bishop discloses the portable climate control unit carrier of claim 104, wherein the dwelling is formed from a material selected from the group consisting of polymer, vinyl, nylon column 3, lines 27-33, cotton, leather, or combinations thereof. Louie discloses the dwelling is formed from fabric like material of canvas, synthetic or natural material; canvas commonly includes a plastic film to be somewhat water resistant or water proof. Claim 111.

Bishop, column 4, lines 27-30 discloses the portable climate control unit carrier of claim 110, wherein the dwelling is a nylon. The specific type of nylon is not seen as critical and relevant to the invention; ballistic nylon is known in the art of tents and textile

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associated therewith

claim 117.

Bishop discloses a kit comprising a collapsible structure defining a moisture impermeable, canvas, natural or synthetic material enclosure, the collapsible structure interchangeably transformable between a first storage configuration and a second inhabitable configuration and further having a portion defining a pliant, resealable climate control unit-receiving aperture defined by 33, wherein said second inhabitable configuration cannot be established and/or retained at the predetermined shape in the absence or presence of a climate control unit. Louie discloses a tent held in a second inhabitable configuration in the absence of a climate control unit.

claim 118.

Bishop discloses the kit of claim 117, further comprising a climate control unit.

claim 119.

Bishop further comprising a climate control unit carrier 39..

Claims 99, 106, 120 and 121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bishop in view of Louie and further in view of Laiti (6,796,896).

claim 99.

Bishop lacks the tent of claim 97, wherein the air is heated. Climate control are manufactured to produce warm and cold air from a single unit; this fact is commonly and well known in the art today. Laiti teaches an environmental control unit which may

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be an air conditioner or an air(heat) pump; air (heat) pumps are commonly known to produce warm and cold air. It would have been obvious to one of ordinary skill in the art to modify Bishop to include the climate control unit producing hot or cold air in order to provide a comfortable environment for the housing when employed in various weather conditions.

claim 106.

Bishop lacks the tent of claim 97, wherein the air is heated. Climate control are manufactured to produce warm and cold air from a single unit; this fact is commonly and well known in the art today. Laiti teaches an environmental control unit which may be an air conditioner or an air(heat) pump; air (heat) pumps are commonly known to produce warm and cold air. It would have been obvious to one of ordinary skill in the art to modify Bishop to include the climate control unit producing hot or cold air in order to provide a comfortable environment for the housing when employed in various weather conditions.

Claim 120

Bishop lacks the climate control unit of a heater or an air conditioner, not of the fan type . Laiti teaches an environmental control unit which may be an air conditioner or an air(heat) pump; air (heat) pumps are commonly known to produce warm and cold air. It would have been obvious to one of ordinary skill in the art to modify Bishop to include the climate control unit producing hot or cold air in order to provide a comfortable environment for the housing when employed in various weather conditions.

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Claim 122 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bishop in view of Louie and further in view of Laiti.

Bishop discloses the climate unit is an air “conditioner” or fan.
claim 122.

Leslie discloses the kit of claim 117, further comprising an adjustable stand for holding a climate control unit at a predetermined distance in relation to the dwelling. It would have been obvious to modify the kit of Bishop to include the stand of Leslie.

Applicant’s arguments are moot in view of the new ground of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeanette E. Chapman whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, David Dunn can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeanette E Chapman/
Primary Examiner, Art Unit 3633